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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/050,799	01/16/2002	Stephen D. Kuslich	S85.2-9923	7825
490	7590	06/01/2005	EXAMINER	
VIDAS, ARRETT & STEINKRAUS, P.A. 6109 BLUE CIRCLE DRIVE SUITE 2000 MINNETONKA, MN 55343-9185			DEMILLE, DANTON D	
			ART UNIT	PAPER NUMBER
			3764	

DATE MAILED: 06/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/050,799

Applicant(s)

KUSLICH ET AL.

Examiner

Danton DeMille

Art Unit

3764

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 7-22-02
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. **Claim 23 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.**
2. It is not clear how much weight can be given the limitation that the positive pressure source is portable since the positive pressure source is not part of the claimed combination.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
4. **Claims 1-5, 7, 9-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cariapa et al.**
5. Cariapa teaches in figure 6 a vehicle having a pneumatic pressure source for supplying a predetermined flow of pneumatic fluid through a plurality of leads to a plurality of compression sleeves having a plurality of inflatable chambers therein. While Cariapa may not teach the plurality of sleeves are in a plurality of passenger positions, it would have been obvious to provide another set of sleeves for another passenger in the vehicle. Duplicating another set of sleeves for another person would have been obvious to one of ordinary skill. It would have been

obvious to one of ordinary skill in the art to modify Cariapa to include a second set of sleeves for another passenger in the vehicle so that more one passenger can enjoy the physical therapy.

6. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cariapa et al. in view of Peeler et al.

7. Cariapa appears silent with regard to exactly what pressures are applied to the feet and legs of the passenger. Any conventional pressure would have been obvious. Peeler exemplifies the art of applying compression sleeves to people for preventing thrombosis. Peeler teaches column 4, lines 31-36, pressures in the range of 65-15 mm Hg. This would comprehend the claimed range. It would have been obvious to one of ordinary skill in the art to further modify Cariapa to use pressures in the range of 65-15 mm Hg as taught by Peeler to complete the details of Cariapa.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 18-22, 26, 27 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Dye et al.

10. Dye teaches a sleeve having a plurality of inflatable chambers wherein a first chamber is in fluid communication with a second chamber and a third and a fourth and a fifth and a sixth chamber. The pressure valves 38 provide the sequence of subsequent inflation.

11. Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dye et al.

12. While Dye teaches a pressure valve including a biasing member 52 and plug 50 the shape of the plug 50 is well within the realm of the artisan of ordinary skill. Ball valves are well known and an obvious equivalent alternative to the plug of Dye. It would have been obvious to one of ordinary skill in the art to modify Dye to shape the valve plug to be a ball as is conventional and well known to an artisan of ordinary skill.

13. Claims 23-25, 8 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dye et al. in view of Cariapa et al.

14. It would appear that the pressure source 28 is portable however it is not clear. Cariapa teaches that the pressure source and controller can be portable. It would have been obvious to one of ordinary skill in the art to modify Dye to use a portable pressure source as taught by Cariapa to make the system light weight and easily transportable to different locations.

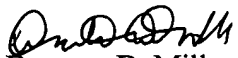
15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Danton DeMille whose telephone number is (571) 272-4974. The examiner can normally be reached on M-Th from 8:30 to 6:00. The examiner can also be reached on alternate Fridays.

16. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Huson, can be reached on (571) 272-4887. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

17. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR

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system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Danton DeMille
Primary Examiner
Art Unit 3764